IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1855 OF 2005
IN
SUIT NO.4148 OF 1997

Sejpal Textiles — Plaintiff

versus

Girish Kumar Devji Bhimji
and others — Defendants

ALONG WITH
NOTICE OF MOTION NO.1881 OF 2005
IN
SUIT NO.4147 OF 1997

Shreenath Krishna Enterprises — Plaintiff

versus

Girish Kumar Devji Bhimji and
others — Defendants

ALONG WITH
NOTICE OF MOTION NO.1882 OF 2005
IN
SUIT NO.4268 OF 1997

Ansari Mohamad Ilyas — Plaintiff

versus

Girish Kumar Devji Bhimji
and others — Defendants

Mr.Cyrus Ardeshir with Mr.Jayesh Vyas i/by M/s. Bilawala & Co. for defendants 2(i) and 2(iii).

CORAM : S.C.DHARMADHIKARI, J.

DATE : 22nd July 2005

PC :

1. Heard learned counsel for plaintiffs and defendants 1 to 3. Mr.Jain tenders draft amendments to the plaint. Although suit is filed in 1997, since amendment seek to incorporate only the names of the heirs of the deceased defendant no.2 and to add a prayer for interest till payment and/or realisation, no prejudice will be caused to the defendants if amendments are granted. However, all contentions of the defendants insofar as amended prayer for interest is concerned are kept open.

2. Mr.Jain states that although the motion is directed against defendants 1 and 3 as well, he is not pressing for any interim reliefs as far as these defendants. On the last occasion Mr.Jain invited my attention to the orders which were in force pertaining to shop premises and residential flat. In the submission of Mr.Jain, upon death of the deceased, the legal heirs of the deceased ought to be bound by the orders passed by this Court which protect rights of the plaintiffs and preserves status-quo during pendency of the proceedings i.e. the suit. An affidavit is filed in these motions on behalf of defendants

2(i) to 2(iii) in which an undertaking is given that these defendants will not surrender and/or transfer and/or create third party rights in the tenanted shop Nos.486/487 situated at Chandra Chowk, 2nd Lane, M.J.Market, Kalbadevi and office No.22/24 situated at Ganeshwadi, 3rd Floor, M.G.Building, Kalbadevi, Mumbai 400 002. An undertaking is also given in respect of residential flat being Flat No.406, situate at Dharam Palace, 4th Floor, N.S.Patkar Road, Mumbai 400 007. These defendants have undertaken not to transfer the said residential flat pending hearing and final disposal of this suit. In view of these undertakings which are accepted, Mr.Jain does not press for any reliefs. Notice of Motion disposed off in the light of undertakings given by defendants 2(i) to 2(iii). No costs. Amendment to be carried out within two weeks.

(S.C.DHARMADHIKARI, J.)